

## **Native American Graves Protection and Repatriation Act**

**[25 U.S.C. 3001-3013](#) [43 CFR Part 10](#)**

### **What is NAGPRA?**

NAGPRA was passed on November 16, 1990, to resolve the disposition of Native American human remains and cultural items under the control of Federal agencies and institutions that receive Federal funding, as well as the ownership or control of human remains and other cultural items discovered on Federal or tribal lands after November 16, 1990. The statute and regulations outline the rights and responsibilities of lineal descendants, Indian tribes, Native Hawaiian organizations, Federal agencies and certain institutions in the NAGPRA compliance process, and provide the procedures for these parties to follow. Depending on the cultural item in question, lineal descendants (regardless of whether or not they are Native American), Indian tribes (including Alaska Native villages), and Native Hawaiian organizations (NHOs), are provided a process in which to request that individuals or a NAGPRA cultural item be transferred to them.

### **What are NAGPRA cultural items?**

**Human remains:** physical remains of a Native American

**Funerary objects:** placed near individual human remains as part of the death rite or ceremony

**Sacred objects:** needed for the modern-day practice of traditional Native American religions

**Cultural patrimony:** group-owned objects having ongoing importance to the group

### **Who must comply with NAGPRA?**

Those entities having control of NAGPRA cultural items:

**Federal agencies** (excluding the Smithsonian Institution, which operates under a parallel law)

**Institutions that receive Federal funds** (including, but not limited to, museums, colleges and universities, state or local agencies and their subdivisions)

### **When is cultural affiliation determined to exist?**

When, after following the requirements of the law, including consultation with tribes, there is a reasonable belief that the totality of the evidence permits a relationship of shared group identity to be traced between a present-day Native group and an earlier group, based on biological, archeological or anthropological information, geographical location, kinship ties, linguistic connection, folkloric references, oral traditions, historical data, other relevant information or expert opinion.

### **When is an individual determined to be culturally unidentifiable (CUI)?**

When, after following the requirements of the law, including consultation with tribes, the totality of the evidence does not reasonably permit a relationship of shared group identity to be traced. There is a process in NAGPRA for resolution of the control of CUI depending on whether the human remains of a culturally unidentifiable Native American individual are determined to have either a "tribal land" provenience, an "aboriginal land" provenience, or a "non-tribal land and non-aboriginal land" provenience.

**Who owns/controls NAGPRA cultural items discovered on Federal or tribal lands after November 16, 1990?**

**On tribal land**, human remains and associated funerary objects belong to the lineal descendant(s) of the Native American. If no lineal descendant can be ascertained, the cultural items belong to the “tribal land” Indian tribe or NHO. Unassociated funerary objects, sacred objects, and objects of cultural patrimony belong to the “tribal land” Indian tribe or NHO.

**On Federal land**, human remains and associated funerary objects belong to the lineal descendant(s) of the Native American. If no lineal descendant can be ascertained, control is with the closest culturally affiliated tribe or NHO that states a claim. In the case of unassociated funerary objects, sacred objects, and objects of cultural patrimony, control is with the closest culturally affiliated tribe or NHO that states a claim. If cultural affiliation cannot be determined, control of a NAGPRA cultural item is with the Indian tribe that is recognized as the “aboriginal land” tribe and states a claim, unless the claim is preempted by the claim of an Indian tribe whose cultural relationship to the item is stronger than that of the “aboriginal land” tribe.

**What is the process for resolution of ownership of NAGPRA cultural items discovered on Federal or tribal lands after November 16, 1990?**

**Intentional Excavation=  
Discovery with a Plan:**

1. Prior to any discovery, and through consultation, develop a **Plan of Action** or an agreement for disposition upon discovery and removal.
2. If items are discovered, immediately put the plan or agreement into action.
3. Publish any Notices of Intended Disposition (NIDs) in newspaper twice.
4. Transfer control after 30 days.
5. Send copy of NID to National NAGPRA.

**Inadvertent Discovery=  
Discovery without a Plan:**

1. Discovery of items without a plan for disposition.
2. Stop work for 30 days, protect site, consult, and develop a plan.

## What are the NAGPRA Collections summary and inventory processes?

### Summaries for unassociated funerary objects, sacred objects & objects of cultural patrimony:

1. **Institution or Federal agency** produces a summary description of objects in its collection that fit, or might fit, one of the categories (**NAGPRA Summary**) and distributes it to all potentially affiliated tribes or NHOs.
2. **Institution or Federal agency** consults with tribes or NHOs, upon request, to identify NAGPRA items.
3. **Tribe or NHO** submits a written claim, and if the claim satisfies the criteria, **institution or Federal agency** publishes a [Notice of Intent to Repatriate](#) in the Federal Register.

### Inventories for human remains and associated funerary objects:

1. **Institution or Federal agency** consults with **tribes or NHOs** to determine if human remains and associated funerary objects in its collection are culturally affiliated or culturally unidentifiable.
2. Based on the totality of the information in its possession, **institution or Federal agency** creates an item-by-item [Culturally Affiliated Inventory](#) or [Culturally Unidentifiable Inventory](#).
3. Within 6 months of completing either type of inventory, **institution or Federal agency** sends copies to appropriate tribe(s) or NHO(s) and publishes a [Notice of Inventory Completion](#) in the Federal Register. Notices are not claim dependent.

4. **Institution or Federal agency** waits 30 days following publication of a Federal Register notice before transferring control, in case there are competing claims that satisfy the criteria. During the 30 days there can be consultation on transfer of possession.
5. **Institution or Federal agency** must transfer *control* of item(s) to **tribe(s) or NHO(s)** **within 90 days of receipt of a claim that satisfies the criteria** if no exceptions apply (such as to resolve competing claims), and transfers *possession* of item(s) based on mutual agreement of the parties.

## What does the [National NAGPRA Program](#) do?

**Supports** the Review Committee established to monitor NAGPRA compliance, make findings of fact, facilitate the resolution of disputes, consult on regulations, and report to Congress

**Drafts** regulations to implement NAGPRA, in consultation with the Review Committee

**Publishes** notices in the Federal Register

**Maintains** databases for NAGPRA inventories and summaries, and to identify consulting parties

**Administers** grants to Indian tribes, Native Hawaiian organizations and museums

**Provides** training and outreach programs to tribes, institutions, Federal agencies and the public

**Staffs** the Secretary on civil penalties imposed on institutions that fail to comply with NAGPRA